1 2 3 4 5 6	Jason H. Fisher (State Bar No. 222982) jfisher@fisherlg.com FISHER LAW GROUP® 18017 Chatsworth St. #250 Los Angeles, CA 91344 Telephone: (310) 746-3053 Facsimile: (310) 295-2259 Attorneys for Plaintiff SMART ENERGY TODAY, INC.		
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8	IMITED STATE DISTRICT COLUDT		
9	UNITED STATE DISTRICT COURT		
10	CENTRAL DISTRICT OF CALIFORNIA		
11	SMART ENERGY TODAY, INC., a) Case No.	
12	Washington corporation,	COMPLAINT FOR:	
13	Plaintiff,)	
14	vs.) (1) Trade Libel;) (2) Defamation;	
15	Does 1 to 10,	DEMAND FOR HIDA TRIAL	
16	Defendants.) DEMAND FOR JURY TRIAL)	
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21		_}	
22	Plaintiff SMART ENERGY TODAY, INC., for its complaint herein, alleges		
23	as follows:		
24	JURISDICTION AND VENUE		
25	JURISDICTION AND VENUE		
26	1. This action is for, <i>inter alia</i> , Trade Libel, in violation of the laws of the		
27	United States. This court has jurisdiction over this action pursuant to 15 U.S.C. §		
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	COM	MPLAINT	

1121(a) and 28 U.S.C. § 1331 and 1338(a) in that this case arises under the laws of the United States pursuant to the Lanham Act, 15 U.S.C. §§1051 *et seq.*

- 2. This Court has supplemental jurisdiction over the claims herein arising under the laws of the State of California pursuant to 28 U.S.C. §§1338(b) and form part of the same case or controversy under Article III of the United States Constitution.
- 3. Venue is properly asserted against DOES 1-10 ("Defendants"), in this District under 28 U.S.C. § 1391(b) in that a substantial part of the events or omissions giving rise to the claims herein arose in this District. Additionally, upon information and belief, Defendants conduct business via the Internet in California, and as such, maintain the requisite minimum contacts to be subject to the personal jurisdiction in California under 28 U.S.C. §1391(c).

PARTIES

- 4. Smart Energy Today, Inc. is a Washington corporation, qualified to do business in California and having its principal place of business at 1001 Cooper Point Rd. AQ, Suite 140 #290, Olympia, Washington 98502 ("SET"). SET is now, and for over three years, has been engaged in the business of selling energy efficiency related products and services in interstate commerce, across multiple states, including but not limited to, Washington, Oregon, California, Idaho and Maryland; and has an Internet website located at www.smartenergytoday.net.
- 5. On information and belief, Defendants DOES 1-5, are the authors, editors and/or publishers of the materials complained upon herein and conduct business on the Internet with residents of the many states, including California.
- 6. On information and belief, Defendants DOES 6-10, are the competitor business(es) that caused for the materials complained upon herein to be posted

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online; and conduct business on the Internet with residents of many states, including California.

INTRODUCTION

- 7. SET is a well-known supplier of products and services in the growing "energy efficiency" industry. It specializes in helping homeowners and business owners become more energy efficient with the ultimate goal of helping them to save money on their utility bills, decrease consumption and increasing the comfort of their home or business. Over the past few years, SET has built a strong following and the name SMART ENERGY TODAY has acquired secondary meaning as a designation of source or origin of the goods and services SET provides under the name SMART ENERGY TODAY. Through extensive and continuous use, SET has developed significant trademark rights in the phrase SMART ENERGY TODAY and owns the federally registered trademark for SMART ENERGY TODAY in International Class 037 with date of first use in commerce as January 1, 2012 (Registered February 17, 2015, Reg. No. 86136014). This registration identified is valid, subsisting and use has been continuous without being abandoned, since its date of first use.
- 8. On information and belief, Defendants DOES 1-5 are agents of or acting at the specific request of DOES 6-10, who run website(s) on the Internet and/or business offline, that are direct competitors of SET in the same marketplace. In or around the Summer of 2015, SET discovered that Defendants DOES 1-5 published articles and made written statements on the Internet which would be considered commercial advertising, on, inter alia, websites such as yelp.com and angieslist.com and to government agencies, such as the Environmental Protection Agency (collectively the "Offending Statements").
- 9. On information and belief, the Offending Statements contain false and disparaging statements of fact about the products and services provided by SET.

- 10. On information and belief, the Offending Statements were made with either knowledge of falsity or with reckless disregard of their truth or falsity.
- 11. On information and belief, the Offending Statements were published with intent to harm SET's interests or with knowledge that harm will inevitably result.
- 12. Specific ("special") damages have been suffered by SET, which were directly caused by the Offending Statements.
- 13. On information and belief, Defendants are profiting from the Offending Statements by having potential SET customers diverted to their own websites and/or business(es).

FIRST CLAIM

TRADE LIBEL in violation of 15 USC 1125(a)(1)(B)

- 14. SET incorporates by reference paragraphs 1 to 13, as if set forth in full.
- 15. On information and belief, Defendants' Offending Statements were made in interstate commerce in connection with goods or services, and are false or misleading representations of fact, which misrepresent the nature, characteristics, and qualities of another person's goods, services or commercial activities, in violation of 15 USC §1125(a)(1)(B).

SECOND CLAIM

DEFAMATION in violation of CA Civil Code §44

- 16. SET incorporates by reference paragraphs 1 to 15, as if set forth in full.
- 17. On information and belief, the Offending Statements are false and unprivileged publications by writing, which exposes SET (and its employees) to hatred, contempt, ridicule, or obloquy, or which causes SET (and its employees) to be shunned, or avoided, or which has a tendency to injury SET (and its employees) in their/its occupation.

1 PRAYER FOR RELIEF 2 WHEREFORE, SMART ENERGY TODAY, INC. prays that judgment be 3 entered against defendants, and each of them, jointly and severally, as follows: 4 A. For a permanent injunction ordering Defendants, their agents, servants, 5 employees, attorneys, and all persons in active or passive concert or participation 6 with Defendants to refrain from publishing the Offending Statements, and remove 7 the Offending Statements to the extent they remain published on the Internet; 8 В. For lost profits and costs incurred by SET due to the Offending 9 Statements; 10 C. For legal costs and fees incurred by SET to attain the relief requested 11 herein; and 12 D. For such other and further relief as this Court deems just and proper. 13 14 DATED: October 30, 2015 FISHER LAW GROUP® 15 16 Jason H. Fisher 17 Attorneys for plaintiff SMART ENERGY TODAY, INC. 18 19 20 21 22 23 24 25 26 27 28

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1	DEMAND FOR JURY TRIAL	
2	Pursuant to Fed.R.Civ.P. 38 and Local Rule 38-1, plaintiff demands a jury	
3	trial on all issues so triable.	
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5	DATED: October 30, 2015 FISHER LAW GROUP®	
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7	By Jason H. Fisher	
8	Jason H. Fisher Attorneys for plaintiff SMART ENERGY TODAY, INC.	
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